

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA :

v. :

S1 19 Cr. 373 (PGG)

MICHAEL AVENATTI :

Defendant. :

**DEFENDANT AVENATTI'S NOTICE OF MOTION
FOR A WRITTEN JUROR QUESTIONNAIRE**

PLEASE TAKE NOTICE, that upon the accompanying Declaration of Scott A. Srebnick and Memorandum in Support, defendant Michael Avenatti will move this Court, before the Honorable Paul G. Gardephe at the United States Courthouse, 40 Foley Square, Courtroom 705, New York, NY 10007, for an Order granting a written juror questionnaire. A copy of Defendant Avenatti's Proposed Juror Questionnaire is attached as Exhibit 1.

Dated: November 15, 2019

Respectfully submitted,

By: /s/Scott A. Srebnick
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By: /s/Jose M. Quinon
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CERTIFICATE OF SERVICE

I hereby certify that on November 15, 2019, I caused a true and correct copy of the foregoing to be served by electronic means, via the Court's CM/ECF system, on all counsel registered to receive electronic notices.

/s/Scott A. Srebnick

Scott A. Srebnick

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA, :

VS. :

MICHAEL AVENATTI, :

Defendant. :

S1 No. 19 Cr. 373 (PGG)

DEFENDANT AVENATTI'S PROPOSED JUROR QUESTIONNAIRE

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Attorneys for Defendant Michael Avenatti

JUROR NAME: _____
JUROR NUMBER: _____

TO THE PROSPECTIVE JUROR:

The purpose of this **confidential** questionnaire is to provide information to the judge, the prosecutors, the defense attorneys, and the Defendant to assist them in determining whether you can be a fair and impartial juror in this case. You must give true and complete answers to every question.

Where indicated, please check the space for “Yes” or “No” and, as requested, furnish answers, explanations, and/or details in the spaces provided. Please print your answers in blue or black ink. Please do not leave any questions unanswered. If you don’t understand any question, please write, “I don’t understand.” If there is not enough space for you to complete the answer to a question, please continue your answer on the back of the page.

All of your responses will remain completely confidential. Do not discuss the questions or answers with anyone, including your fellow prospective jurors. It is extremely important that your answers be your own answers and not influenced by those around you. During the jury selection process, it is critically important that you not read anything about the case, that you not discuss it with anyone, that you not let anyone talk to you about the case, and that you do not do any research about the case on the Internet or any place else. If you are selected for the jury, I will have more instructions for you later on this topic.

Please enter your name and juror number on the front page of the questionnaire and at the top of each page.

JUROR NAME: _____
JUROR NUMBER: _____

INTRODUCTION

NATURE OF CASE:

This is a criminal case. The defendant, Michael Avenatti, is a lawyer charged with extortion for allegedly threatening to injure the reputation of, and cause economic harm to, Nike if Nike did not meet certain settlement demands that Mr. Avenatti made during settlement discussions with lawyers for Nike in March 2019. At the time, Mr. Avenatti, as a lawyer, was representing a client named Gary Franklin, who coached the California Supreme travel basketball team in Nike's Elite Youth Basketball League, a nationwide league of the top amateur high school players in the country. Mr. Avenatti is also charged with wire fraud for allegedly depriving Coach Franklin of his right to Mr. Avenatti's honest services.

Mr. Avenatti is presumed innocent of the charges against him, and it is the Government's burden to prove, beyond a reasonable doubt, that he committed these crimes. Mr. Avenatti has no burden to present any evidence at all and, indeed, has no obligation to testify at trial.

This case has received significant press attention. Many of you may have heard of Mr. Avenatti. He is a well-known lawyer who has been involved in a number of high-profile matters. Many of you may also have views about amateur basketball and whether high school basketball players should be paid. Accordingly, this questionnaire asks whether you have read, seen, or heard anything about Mr. Avenatti or this case, whether you have strong views about some of the topics that may arise during the trial, and whether you will follow the Court's instructions to decide this case based solely on the evidence that will be presented in court.

It is vitally important that the jury's verdict be based solely on the evidence received in the courtroom, and not on what might have been written or said about Mr. Avenatti in the media, including social media. Nothing that has been said or written about Mr. Avenatti matters at all at trial. Instead, we rely on people like you to listen carefully to the evidence and the judge's instructions on the law, and come to a verdict based solely on that evidence and that law.

JUROR NAME: _____

JUROR NUMBER: _____

QUESTIONS

1. Do you have any physical/medical problem(s) that would interfere with your ability to serve as a juror? _____ Yes _____ No

If yes, please explain the hardship:

2. Is English your native language? _____ Yes _____ No

If no, do you have any difficulty reading or understanding English?

3. Please provide the following information:

a. Marital Status: _____

If married, spouse's occupation: _____

b. Are you:

_____ Employed full-time

_____ Self Employed

_____ Retired

_____ Student (if so, indicate area of study: _____)

_____ Employed part-time

_____ Homemaker

_____ Unemployed/laid-off

_____ Other (Please describe)

JUROR NAME: _____

JUROR NUMBER: _____

c. What is your occupation (please list name of employer)?

d. How long have you been engaged in your current occupation? _____

e. If you are retired, unemployed, or have been at your current occupation less than five years, what was your previous occupation? _____

f. What are/were your specific duties at your job? _____

g. How many people do you supervise? _____

h. Do you have any children? _____ Yes _____ No

If yes, please fill out the chart below:

<u>Age</u>	<u>Male/Female</u>	<u>Occupation or Year in School</u>
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4. Educational Background:

_____ Less than High School

_____ High School graduate

_____ College Graduate. If so, please indicate degree and/or field of study:

_____ Post-Graduate degree. If so, please indicate degree and/or field of study:

JUROR NAME: _____

JUROR NUMBER: _____

5. Have you ever heard of Michael Avenatti? _____ Yes _____ No

If yes: How did you hear about him, did you form an opinion about Mr. Avenatti as a person as a result of what you have seen or heard, and if so, what is that opinion? Please explain.

6. Have you read, seen, or heard anything about this case? _____ Yes _____ No

If yes: What have you read, seen or heard and where did you get your information?

7. Based on what you have read, seen, or heard about this case, did you form an opinion about Mr. Avenatti's guilt? _____ Yes _____ No

If yes: What is your opinion? _____

JUROR NAME: _____

JUROR NUMBER: _____

8. Would your opinion interfere with your ability to decide this case based solely on the evidence presented at trial? _____ Yes _____ No

If yes, please explain: _____

9. Have you read, seen, or heard anything about any other cases involving Mr. Avenatti?

_____ Yes _____ No

If yes: Please describe or summarize every case you associate with Mr. Avenatti, including what you have read, seen or heard about the case and where did you get your information? _____

10. In 2018, Michael Avenatti sued President Trump on behalf of Stormy Daniels. Have you heard about that lawsuit? _____ Yes _____ No

If yes: What have you heard? Is there anything about Mr. Avenatti's filing of lawsuits against President Trump that may make it difficult for you to be a fair and impartial juror in this case? Please explain.

JUROR NAME: _____

JUROR NUMBER: _____

11. Are you a fan of high school or college basketball? If so, of what teams or players?

12. Do you believe that clothing and shoe companies should be permitted to pay amateur basketball players in high school and college? ____Yes ____No

Please explain: _____

13. Do you believe that amateur basketball players (high school and college) should be paid? ____ Yes ____ No

Please explain: _____

14. Do you believe a lawyer representing a client should not communicate with the press, go on television, or hold press conferences? ____ Yes ____ No

Please explain. _____

JUROR NAME: _____
JUROR NUMBER: _____

15. Mr. Avenatti is a civil trial lawyer who sues individuals and corporations.

a. What is your opinion of civil trial lawyers?

b. Do you believe there are too many lawsuits in this country?

Please explain: _____

c. Do you believe that people are too ready to sue?

Please explain: _____

d. Do you believe that lawsuits are costing us all too much money?

Please explain: _____

e. Do you feel that money damages awarded in lawsuits are:

☐ Excessive?

☐ Occasionally too low?

☐ Often too large?

☐ Often too low?

☐ About right?

f. Do you have any negative opinions about people who bring lawsuits for money damages to compensate them for injury or harm?

_____ Yes _____ No

JUROR NAME: _____

JUROR NUMBER: _____

If yes, please explain: _____

- g. Do you believe there should be caps or limits on the amount of money juries can award? _____ Yes _____ No

If yes, please explain: _____

16. Do you believe most large public companies behave ethically and responsibly?

_____ Yes _____ No

Please explain:

17. Do you typically spend time on the Internet or social media?

If yes, how many hours a day do you typically spend on the Internet or social media, and for what purposes do you commonly use the Internet or social media?

JUROR NAME: _____

JUROR NUMBER: _____

18. Are you a member of Twitter, Facebook, or Instagram or a similar social media website? _____ Yes _____ No.

If yes, what functions do you use on those social media sites?

19. There will be evidence that Mr. Avenatti used aggressive and perhaps offensive language during several negotiations with Nike lawyers. Would that interfere with your ability to be a fair and impartial juror in this case? _____ Yes _____ No

If so, why? _____

20. Have you, a family member, or a close friend ever worked in law enforcement (including state or local police departments, the FBI, the Securities and Exchange Commission, any prosecutor's office, the Department of Corrections, any regulatory agency, etc.): _____ Yes _____ No

If yes, please explain: _____

21. Have you, your spouse/significant other, and/or a close family member ever served in the military? _____ Yes _____ No

If yes, what branch and how long: _____

JUROR NAME: _____

JUROR NUMBER: _____

22. Who are the three publicly known people you admire most?

a. _____

b. _____

c. _____

23. Who are the three publicly known people you admire least?

a. _____

b. _____

c. _____

24. What are your hobbies? _____

25. What is your main source for news? _____

26. Please list any newspapers and/or magazines that you read on a regular basis:

27. Please check which of the following news stations you watch on a regular basis:

CNN

FOX

MSNBC

Please list any others: _____

JUROR NAME: _____**JUROR NUMBER:** _____

28. Have you ever served as a juror at trial? _____ Yes _____ No

If applicable, please briefly described the case(s) in which you served as a juror, using the following table:

Civil or Criminal	Type of Case (e.g. personal injury, homicide, etc)	Did you reach a verdict, did the jury hang, or was the case settled? If you reached a verdict, what was it?

29. If you have served on a civil jury, you must understand that the burden of proof in a criminal case requires the prosecution to prove the defendant's guilty "beyond a reasonable doubt," while in civil cases the burden of proof requires the plaintiff to prove his or her case by a preponderance of the evidence, which is a far lesser standard. Do you feel that you might have difficulty following the law as it applies to this case, a criminal trial? _____ Yes _____ No

If yes, please explain: _____

30. Have you ever served as a grand juror? _____ Yes _____ No

If you have served on a grand jury, you understand that grand juries bring charges based on "probable cause," while in criminal cases the burden of proof requires the prosecution to prove the defendant's guilt "beyond a reasonable doubt," a much higher standard. Do you feel that you might have difficulty following the law as it applies to this case – a criminal trial? _____ Yes _____ No

JUROR NAME: _____

JUROR NUMBER: _____

If you have served on a grand jury, did anything happen during your time as a grand juror that might affect your ability to be fair and impartial in this case?

_____ Yes _____ No

If yes, please explain: _____

31. Have you ever testified as a witness at any kind of legal proceeding, including a case or trial?

_____ Yes _____ No

If yes, please explain: _____

32. Have you ever been involved in a civil or criminal proceeding as either a plaintiff or defendant? _____ Yes _____ No

If yes, please explain: _____

JUROR NAME: _____

JUROR NUMBER: _____

33. If this case receives media attention, will you be able to follow the Court's instruction that you are not to watch television, go on the internet or social media, read newspapers, magazines, or any other form of print media, and/or listen to or watch any media coverage regarding this case or do research about Mr. Avenatti and that the only evidence you are permitted to consider is that which is presented in court? _____ Yes _____ No

If no, please explain: _____

34. What are your thoughts about the criminal justice system in the United States?

35. Mr. Avenatti is presumed innocent and cannot be convicted unless the jury, unanimously and based solely on the evidence presented in court, decides that his guilt has been proven beyond a reasonable doubt. The burden of proving guilt beyond a reasonable doubt rests entirely with the government. Mr. Avenatti has no burden of proof whatsoever and he is not required to present any evidence. Would you have any difficulty following these rules?

_____ Yes _____ No

If yes, please explain: _____

JUROR NAME: _____
JUROR NUMBER: _____

36. An indictment itself is not evidence. It merely is a document that describes the charges the government has brought against Mr. Avenatti. It is only an accusation. It may not be considered by you as any evidence whatsoever of Mr. Avenatti's guilt. Would you have any difficulty following this rule of law? _____ Yes _____ No

If yes, please explain: _____

37. Under the law, Mr. Avenatti need not testify in his own defense. If he does not testify, the jury may not consider that fact in any way in reaching a decision as to whether a defendant is guilty. Would you have any difficulty following this rule of law?
_____ Yes _____ No

If yes, please explain: _____

38. Are you or anyone you know acquainted with any of the following individuals?

Matthew Podolsky

Robert Sobelman

Daniel Richenthal

Scott Srebnick

Jose Quinon

[Add Names of Witnesses]

JUROR NAME: _____
JUROR NUMBER: _____

39. If you circled anyone above, please explain how you know the individual(s):

40. Is there any reason that you cannot be a fair and impartial juror in this case for reasons that have not been covered in this Questionnaire?

_____ Yes _____ No

If yes, please explain: _____

DECLARATION:

I, _____ declare under penalty of perjury that the foregoing answers set forth in his Jury Questionnaire are true and correct to the best of my knowledge and belief. I have not discussed my answers with others, or received assistance in completing the questionnaire.

Signed this _____ day of _____, 2020.

(Signature)